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STATE SUPERVISION OF COUNTY ASSESSMENT AND TAXATION

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Any careful study of the respective spheres of state and county government must necessarily be based upon clear ideas regarding the nature of the county itself as a unit of local organization. One of the most distinctive features of the American type of political institutions is the striking contrast which exists between the character of legislative authority on the one hand, and the real work of administration on the other. Under the constitutions and statutes of the different states, there exists a degree of legislative centralization which practically eliminates the county and smaller subdivisions of local government; but at the same time the administration of law is parceled out among a long list of local officials for the most part elected by the people, and thus a type of political organization established which frequently leaves to the commonwealth itself or central law-making authority only the merest shadow of nominal supervision and control.

As a logical result of this contrast between legislative centralization and administrative decentralization, there are at present two apparently conflicting movements in the political systems of the forty-eight commonwealths: first, so-called "home rule," which, following the experience of continental Europe, would give to the localities some measure of legislative authority, and, second, a more centralized type of supervision and control which would fix responsibility all along the line from the civil township to the commonwealth, by giving to the latter a more substantial amount of real administrative power and authority. In reality, however, these movements do not necessarily conflict, but form logical parts of a well-ordered system of political evolution, for the obvious reason that, while changed economic and social conditions render imperative a constantly increasing measure of centralized administration, numerous problems of a distinctly local character should be placed in the

hands of properly constituted local officials and not transferred to a central commonwealth board or commission.

The control of public service corporations, the supervision of the revenue system, the construction of permanent highways and a score of other present-day problems demand that the work of administration be transferred in many cases from the localities to the commonwealth. The writer is in thorough sympathy with the movement to centralize authority when the same is demanded to bring about uniformity of conditions on the one hand and administrative efficiency on the other. At the same time, however, problems of a distinctly local character should not be arbitrarily transferred to the state either by legislative enactment, judicial construction, or administrative usurpation and, for that reason, there is a measure of truth in the "home rule" doctrine which the student of political science and the practical statesman should constantly bear in mind. In other words, if the future is to bring about greater centralization of administrative power in order to conform with present economic conditions, it would seem to be apparent that some measure of legislative decentralization must go hand in hand with administrative centralization, and thus insure that balance of local and central authority so essential to the preservation of the democratic form of government.

State supervision of the county and lesser political subdivisions rests upon the solid foundation of legislative authority. The representatives of the people, if they so desire, may either delegate the work of administration to local officials elected or appointed in the civil townships of the county, or establish some compromise system of township and county organization. On the other hand, the same representatives may create by law state boards or commissions to carry on the work of administration. The amount of supervision and control exercised by the commonwealth in each case will depend on historical conditions, the character of local government, industrial and social conditions and numerous other considerations. It is the purpose of this article to examine the nature and scope of state supervision of the most important of all the functions of the county, viz., control of assessment and taxation.

Professor F. J. Goodnow, in his work on "Comparative Administrative Law,"¹ says regarding the necessity of state supervision of

¹ Vol. I, p. 229.

financial problems: "In a few instances, however, where the action of the authorities in the localities may have a disastrous effect upon the general administration of the commonwealth in matters where it is particularly desirable that the administration shall be conducted in accordance with a uniform plan and where local action may produce inequalities in the burden of commonwealth taxation, resort has been had to a central administrative control which, however, up to the present time, has not been thoroughly worked out."

Since the publication, however, of Professor Goodnow's work in 1897, this principle of state supervision has been "worked out" with a reasonable degree of thoroughness in a large group of commonwealths. In 1900 only five states had a permanent state tax commission or state tax commissioner; but so rapid has been the progress of revenue reform since that date that, at the present time, twenty-seven states have organized such boards or commissions.² For reasons already suggested the supervision and control thus vested in an administrative state board may be exercised directly through officials sent to the localities, or indirectly through township or county authority or some compromise system, depending primarily upon the form of local government. In states where the township form of local institutions predominates, the tax commission is obliged, in nearly all cases, to deal directly with the civil townships; but in about half of the tax commission states, the central supervision and control of local finance are exercised through the county as a unit of local organization.

The advantages of state supervision of county finance as compared with state supervision of township finance must be obvious to the student of political science. At the present time, there is in nearly every commonwealth a county board with some control over assessment and taxation. Rhode Island and Georgia are the most distinct exceptions to this rule. Moreover, the number of counties varies from three in Delaware, fourteen in Massachusetts and sixty-one in New York to ninety-nine in Iowa and two hundred and forty-three in Texas. It is thus not only possible, but practi-

² The following states now have some form of permanent state tax board or commission: Alabama, Arizona, Arkansas, Colorado, Connecticut, Indiana, Kansas, Maine, Maryland, Massachusetts, Michigan, Minnesota, New Hampshire, New Jersey, New York, North Carolina, North Dakota, Ohio, Oregon, Rhode Island, Texas, Utah, Vermont, Washington, West Virginia, Wisconsin and Wyoming.

cable, from an administrative standpoint, for the state to deal directly with the county as a type of local government, while it is vastly more difficult, if not impossible, to exercise the same supervision over the civil townships,

For these reasons it follows that, in states having the township form of local government, a substantial amount of power and authority must be exercised by the central state board through officials appointed for that purpose, which, in states having the county form of local government, might safely be vested in the proper county authorities. For example, in Kansas and West Virginia, a large amount of detailed administrative work is handled by the county assessors, which, in New York, Wisconsin and Minnesota, when performed at all, must be placed in charge of officials appointed by the commission and sent out from time to time to the localities.

The creation of the office of county assessor, therefore, as recommended by the tax commissions of Ohio, Minnesota and North Dakota and the Special Tax Commission of Iowa, should not only result in more efficient administration of revenue laws, but should also preserve local self-government in taxation matters in a way quite impossible in states having only the township form of local organization. In other words, changed economic conditions render necessary greater centralization of administrative authority in matters of assessment and taxation. This authority may all be vested either (1) in a state commission with a large corps of appointed expert officials, or (2) partly in a state commission and partly in county officials or boards. The writer is in favor of the latter plan: first, because it is giving the best results in states like Kansas and West Virginia; and second, for the reason that it tends to preserve a safer balance between state and local authority.

At the present time there are at least four types of local government: first, the township as it exists in New England; second, the township-county or supervisor plan, of states like New York, Michigan, Illinois, and Wisconsin; third, the commissioner form of the compromise system or county-township plan, of states like Pennsylvania, Ohio, Indiana, Iowa, Kansas, and Missouri; and fourth, the county plan which predominates in the South. Under the first plan the county is practically blotted from the map as a fiscal unit of local organization, and the state tax board, commission or com-

missioner deals directly with the civil township. In the remaining plans, however, the tendency is very decidedly in favor of state supervision of county rather than township finance.

The problem of accomplishing this result is relatively simple in commonwealths having the county type of local government; more difficult where the commissioner form prevails; and most difficult of all where the supervisor plan of the compromise system of local organization has been in existence for a long period of time. To be more concrete, state supervision of county finance can be accomplished with the minimum of difficulty in a commonwealth like West Virginia. In Kansas, where the people have been accustomed to a substantial measure of township government, state supervision of county finance has been brought about since 1907, but it has required more persistent effort and the result has been a more complex administrative system. In Wisconsin, however, where a tax commission was established several years earlier than in either Kansas or West Virginia, it has been impossible to enact a law creating a county supervisor of local assessment with anything more than nominal authority. Indeed, after several years of experience, the Wisconsin legislature in 1911 repealed the law providing for a county supervisor of assessment with vague and shadowy authority and placed larger powers of supervision in the hands of so-called income tax assessors appointed by the State Tax Commission, thus accomplishing in a measure by indirection what the prejudice of the people for a certain type of local government had prevented by a more direct statutory method.

It is a cardinal principle of public finance that the general property tax, so-called, succeeds or fails in the process of assessment. If the listing or assessment of property for taxation purposes is uniform, the burden of taxation will be equitably distributed among the taxpayers, whether they be individuals or corporations. If the assessment, however, is honeycombed with inequalities, such as every investigating board or commission has discovered to a greater or less degree, the tax levies must be inequitable in the same proportion.

The method of realizing greater uniformity of assessment is not absolutely the same in any two commonwealths. Laws providing for assessment and taxation are nearly always the fruit of legislative compromise and in the last analysis are determined

primarily by the character of local institutions which happen to predominate. Under all political, economic, and constitutional conditions, however, writers on public finance and tax administrators agree on one fundamental principle, viz., the necessity of a larger measure of administrative centralization, which means an enlargement of the supervision and control of assessment and equalization vested in county and state authority. If the county does not exist the state must necessarily deal directly with the civil township and, for reasons already explained, exercise a larger measure of supervision and control than in commonwealths where the county through its proper officials is able to assume a part of the work of administration.

Of the forty-eight commonwealths, seventeen have township assessment without the supervision and control of county assessors, or in fact any county supervision, aside from the nominal review or equalization by an *ex officio* board. This list includes every state north of the Ohio and Potomac rivers and east of the Mississippi River, except Illinois, Indiana and Maryland. It is a significant fact, however, that it includes only North Dakota, Minnesota, Iowa and North Carolina in the extensive territory west of the Mississippi and south of the Ohio and Potomac rivers. This means that, as the American people moved westward, in their development of a broader democracy, the county gradually proved its superiority over the township as a unit of local organization for fiscal purposes.

Indiana, Illinois, Kansas and South Dakota also have some measure of township assessment. In Illinois and South Dakota, part of the counties are under township organization and therefore have township assessors, but in the remaining counties the county system of local government and with it county machinery of assessment prevails. Kansas has township assessors elected by the people in the rural districts and local assessors appointed in towns and cities, but the listing of property in either case is subject to the rigid supervision of a county assessor formerly appointed by the board of county commissioners, but at present elected by the people. In Indiana property is listed by local township assessors working under the supervision of a county assessor elected by the people. Of the four states having a combination system of township and county assessment, Indiana and Kansas have established tax commissions and therefore placed their revenue system on a much more efficient basis than have Illinois and South Dakota.

All the states having township assessment without any county supervision except that of an *ex officio* board of review, have established a permanent state tax commission, or commissioner, except Iowa and Pennsylvania. This demonstrates the fact that township assessment without some real central supervision and control is a recognized failure. New Hampshire, Ohio and Rhode Island have been placed in this list of tax reform states during the last two years. It is to be hoped that Iowa will take a similar step during the present session of the general assembly. In other words, under present economic conditions, it is very apparent that some method of central supervision of township assessment is deemed necessary in order to obtain anything approaching satisfactory results.

The system of county assessment prevails in some form in thirty-one states, which include every state west of the Mississippi and south of the Ohio and Potomac rivers, except Minnesota, North Dakota, Iowa and North Carolina. It is, moreover, a significant fact that bills are now pending in the legislatures of Minnesota, North Dakota and Iowa to create the office of county assessor. This shows that the relatively greater efficiency of the county as a unit of local government for fiscal purposes, is coming more and more to be recognized. The legislature of Ohio is likewise considering a bill, which, if enacted into law, will provide a county tax commissioner for each county of the state, the same to be appointed by the State Tax Commission.

A word of explanation should be made with reference to North Carolina, a southern state where one would expect to find the county system. In fact, the county plan does prevail when we consider that the board of assessors or list takers, while nominally township officials, are appointed by the board of county commissioners and subject to county supervision and control. Furthermore, North Carolina has a state tax commission, which exercises supervision over all the various taxing officials, including the list takers and boards of county commissioners. Thus the board of county commissioners, through its power to appoint township list takers and operating under the supervision of a tax commission, can direct the work of local assessment in much the same manner that the county assessor is able to do in a state like Kansas.

The plan of county assessment, however, has been carried to its logical conclusion in only a few commonwealths where permanent

tax commissions have been established and their powers and duties carefully correlated with the work of county assessors and county boards of review. In recent years the tax commission movement has been making as great progress in states where the county form of local organization prevails as in those having township assessment. Of the county assessor states, and perhaps of all the commonwealths in the Union, Kansas and West Virginia have accomplished the most satisfactory results. The county assessor states that have recently followed the example of West Virginia and Kansas are: Alabama, Texas, Oregon, Washington, Colorado, Arkansas and Arizona. For reasons already explained, this group of states is able to place a large amount of power in the hands of the county.

The method of election, term of office, salary and powers of county assessors are not absolutely the same in any two states. Like other county officials they are generally elected by the people for two or four years. In thirteen states the term of office is four years. Arizona provides that the county assessor shall be appointed by the county board of supervisors. In Virginia, the power of appointment is vested in the circuit courts.

The work of review or equalization, like that of assessment, can best be studied by examining the authority vested in the civil township, including the town and city, the county, and the state, respectively. Beginning with the smaller subdivisions, it is a significant fact that only seven states have a system of so-called local township review. Formerly the plan of township equalization was more common, but it is a type of pioneer institution which has outlived its usefulness and therefore has been gradually abandoned. New Jersey abolished its township board of review in 1906; Illinois, in 1908; Oklahoma and Nebraska, in 1911. For obvious reasons the township is too small a unit of local government for purposes of review, if we are to obtain uniformity of assessment and therefore equality of taxation. There must be some permanent county official whose business it is to see that assessments are uniform throughout the county and this official should be under the supervision of a state tax commission with power and authority to bring about uniformity of assessment among the counties of the state. At the present time, forty-one states are able to get along without local or township review of assessments. Indeed Kansas should be added to this list when we consider that its local board of review is composed of

three persons, two of whom are appointed by the county assessor and therefore subject to his direct supervision and control.

While township review or equalization has been gradually abandoned for administrative and economic reasons, the same cannot be said of county boards of review. Just as county assessments have gained in favor during the last decade, so county review or equalization has rapidly proved its efficiency over the township method. In other words, the tax reform movement of the last ten or fifteen years has increased the authority of the county and decreased that of the township, both from the standpoint of assessment and equalization.

Of the long list of thirty-nine commonwealths with county review of assessment, this power is vested in the county boards of supervisors in nine states, in boards of county commissioners in twenty states, and in the county court in Texas and West Virginia.³ Boards of county review in the remaining eight states present as many different varieties of organization. In Louisiana, this power is vested in the police juries of the different parishes. In New Jersey, the county board of review is appointed by the judge of common pleas, while in Missouri, the county clerk, county surveyor, county assessor and judges of the county court make up the county board of equalization. Tennessee also has an antiquated system, borrowed, in the main, from colonial days.

Perhaps the most significant fact, however, as to county boards of review is that they are almost universally clothed with the power to equalize assessment as between individual taxpayers. This is true in approximately two-thirds of the states. The recommendation, therefore, made by the Special Tax Commission of Iowa that the office of county supervisor of local assessment be created and that the county board of review be clothed with authority to equalize assessments between individuals, would seem to rest upon the solid foundation of successful experience.

Since the subject under consideration is state supervision of county finance, only a word need be said regarding the state assess-

³ The county board of supervisors acts as a county board of equalization in Arizona, California, Kentucky, Nebraska, Michigan, Mississippi, Iowa, New York and Wisconsin. The same work is done by boards of county commissioners in Alabama, Colorado, Florida, Idaho, Illinois, Kansas, Maryland, Minnesota, Montana, Nevada, New Mexico, North Carolina, Ohio, Oklahoma, Pennsylvania, South Carolina, South Dakota, Utah, Washington and Wyoming.

ment of certain classes of public service corporations. In a large group of commonwealths, like Kansas, Michigan and Wisconsin, the work of review or equalization includes property listed by state as well as by local officials, thus making it impracticable to draw any clear line of demarcation between state assessment as such and state review of all classes of property subject to *ad valorem* taxation. Under such conditions the two functions are logical parts of one administrative problem and are rendered necessary by an effort to place the same relative burden of taxation on the property of corporations organized for pecuniary profit as is levied against the property of individuals.

With reference to the close interrelation of state assessment and review, the following comments in the author's essay on "Tax Administration in Iowa" are significant: "Authority to assess the property of various state-wide public service corporations is sometimes vested in a single person, like the Comptroller General of Georgia, but this important function is almost universally placed in the hands of a board of three or more members. In states like Iowa, Missouri and Nebraska an *ex officio* state board of equalization is clothed with this power—a method which was more general throughout the country before the days of the tax commission movement than at the present time. In states like Maine and New Jersey the same authority is conferred upon separate state boards of assessors. During the last decade, however, state assessments and review or equalization have both been very rapidly transferred to a class of permanent state boards generally known as tax commissions. This is true at the present time in Wisconsin, Massachusetts, New York, Michigan, Indiana and a number of other states, and represents a very positive general movement in the field of scientific tax reform."⁴

Some plan of state review or equalization now exists in thirty-eight of the American commonwealths. Those states not having boards of this character are located for the most part in the South. The tendency of the present-day tax reform movement is: first, to increase the administrative power and authority vested in the state; and second, to replace *ex officio* boards by permanent tax commissions, or at least a tax commissioner to collect the necessary

⁴ State Historical Society of Iowa. *Iowa Applied History Series*, Vol. I, p. 560.

statistical data. The fact that more than one-half of the states have made definite progress along this line shows that the work of providing for a more efficient system of assessment and taxation has long since passed the experimental stage.

Thus it appears that the statement made by Professor Goodnow in 1897, that central administrative control of finance "has not been thoroughly worked out" no longer represents the true condition of affairs in a substantial group of commonwealths. Especially during the last decade, legislative centralization has been supplemented by a degree of administrative centralization hitherto unknown in the American political system; a movement which has characterized not only the field of public finance, but numerous other lines of governmental activity. While the practical necessity of this development cannot be denied by the student of economics and political science, the fact remains, however, that every step forward should be taken with caution and only after the most thorough consideration of the problems involved.

In this connection we must not forget that if the time should ever come when the work of administration in the commonwealths is centralized in the same degree as is legislative authority, under present conditions, the counties, townships, and other local units of government would be reduced to mere geographical expressions and local self-government would cease to exist. The writer does not believe that there is any immediate or even remote danger that political and social evolution will bring the American people to such a system of government. The fact remains, however, that while we are urging the necessity of greater centralized administrative authority to the end that political organization may be in harmony with industrial and social conditions, our enthusiasm for mere efficiency should not cause us to forget that there is another side to the problem. While it will be generally admitted that modern capitalistic industry, with its machine production and rapid transportation, makes it necessary to centralize certain functions which only a few years ago were local in character, this does not necessarily mean that the advancement of material civilization has not brought to the front other problems which can best be solved by the cities and other subdivisions of local government. Hence, the "home rule" movement would seem to rest on a logical basis and will probably receive greater attention in the future, as admin-

istrative control of general problems becomes more and more centralized.

With these considerations in mind it follows that administrative authority should be properly distributed among the various units of government from the state down to the minor subdivisions. A more centralized administration does not necessarily mean the transfer of power from the township to the county or from the county to the state. The reasonable demands of centralized administrative control are provided for when the functions of each unit of government are placed upon an efficient business basis. This holds true of the township, city, county and state. In matters of public finance, however, it has been found that the county rather than the township, from an administrative standpoint, is best adapted to meet the requirements of a scientific revenue system, made possible by a wise correlation of state and county authority.

At the present time the legislature of the average commonwealth is more or less arbitrary in determining the maximum tax levies and bond issues of counties and other subdivisions of local government. Aside from the legislative authority thus exercised by the commonwealths over the local units of government, it may be said that the tax commission movement, so-called, means that a central state board of some kind should exercise the following powers: the administration of the tax laws including the supervision of assessors, boards of review and all other local taxing officials; the collection of all statistical data necessary for the purposes of review or equalization; the assessment of the property of public service corporations where the *ad valorem* system prevails; and, finally, the reassessment of taxing districts in cases where it is considered necessary, or even the sending of agents to perform the work of reassessment. Numerous other functions might be mentioned but these can be determined by consulting the tax commission laws of any one of a score of commonwealths, especially those of Ohio, West Virginia, Wisconsin, Minnesota and Kansas.

In conclusion, the essential facts presented in this paper are briefly set forth in a plan of state tax reform outlined by the writer in an address delivered before the fifth national conference of the National Tax Association, held at Richmond, Va., in 1911, which, with some modifications, is as follows:

1. A permanent state tax commission or tax commissioner,

appointed by the governor with the consent of the senate, paid good salaries and serving for not less than six years, said commission or commissioner to have general supervision of the entire revenue system, with authority to assess the property of public service corporations in states where the *ad valorem* system prevails, act as a state board of equalization, or, in case of a single commissioner, to serve on said board, with additional power when necessary to compel the reassessment of property in any taxing district of the state or even send expert agents to do the actual work of reassessment.

2. A county assessor or county tax commissioner, to be elected by the people or appointed by the county board of supervisors or tax commission, his term of office to be not less than three but preferably four or even six years, having authority in turn to appoint deputies to aid in assessing all the taxable property of the county, or, in cases where the prejudice for the township system is too powerful to be overcome, to be at least a necessary connecting link between the local assessors and the tax commission, having general supervision of the former and serving as a member of the county board of equalization.

3. The gradual transfer of fiscal authority from the township or similar local unit to the county, said transfer to include both the collection of taxes and the assessment and equalization of property, the actual changes being made with great caution, only after a thorough study of the history of township and county government, and always with due regard for the prejudices and political habits of the people and other legal, economic, or constitutional considerations.

4. The local taxation of property or business that is local in character, and the state taxation of property and business that is non-local, thus having its legal *situs* at the capital of the state; it being apparent from a careful historical and comparative study that the exclusive state taxation of local property and business, following the inevitable logic of the advocates of segregation, places an unjust burden upon the cities; and the local taxation of property and business not having a local *situs*, *e. g.*, main track, rolling stock, and franchise or intangible value of railroads, compels the majority of rural taxing districts to bear the fiscal burdens of the minority through the payment of telegraph and telephone tolls and railroad and express rates.

5. In cases where the state tax on non-local property and business, coupled with the customary fees and an inheritance tax both collateral and direct, is not adequate to meet legitimate needs, a levy of the required millage on the actual cash value of all taxable property in the state; and in cases where the revenue from said sources is more than sufficient for state demands, the distribution of a part thereof to the local districts for various purposes and on a basis in harmony with the conditions prevailing in a given commonwealth.

6. The assessment of property on a geographical basis at its actual cash value, real estate to be listed separate from the improvements thereon, the rate on moneys and credits, however, being placed at not more than five but preferably four or even three mills, it being recognized that an efficient administration of the general property tax on any other basis is impossible; and finally, when practicable, the extension of the *ad valorem* system to the property of public service corporations in order: first, to obtain a true measure of fiscal burdens, both individual and corporate; and second, to find a common ground in fair valuation for the equitable taxation and intelligent regulation of these great and necessary enterprises. In states, however, where a tax on earnings has become well established, a change to the *ad valorem* plan should not be made without very careful consideration, for the obvious reason that the most essential thing is the efficiency of the administration and not the question whether the tax itself happens to be calculated with reference to value, earnings or some other method.

While conditions are materially different in different states, it is believed that this fiscal law, founded as it is upon centralized administration, the proper correlation of power and authority as between the various divisions of local government, actual cash value of property, a desirable substitute or substitutes for the worn-out personal property tax, and the equitable distribution of taxes received from public service corporations, is sufficiently elastic to serve at least as a working basis of rational tax reform in the average American commonwealth.⁵

⁵ *State and Local Taxation*, 1911, pp. 82, 83.